

United States Senate

WASHINGTON, DC 20510

August 9, 2010

Dr. David Michaels
Assistant Secretary of Labor for Occupational Safety and Health
U.S. Department of Labor
Occupational Safety & Health Administration
200 Constitution Avenue
Washington, D.C. 20210

Dear Assistant Secretary Michaels,

We write you today with concern about the safety of workers at facilities operated by BP Products North America, Inc. (BP). As you know, BP has shown an alarming indifference toward the safety of its 29,000 workers employed in the United States. We believe that additional OSHA oversight of BP facilities will force BP to take OSHA's workplace safety laws more seriously and improve the safety of its workers.

In 2005, an explosion at BP's Texas City Refinery killed 15 workers and injured hundreds of others. A recent report published by the Center for Public Integrity revealed that BP received 760 of the 761 "egregious willful" and 69 of the 91 "willful" OSHA safety citations between June 2007 and February 2010. These categories cite conduct that is "committed with plain indifference to or intentional disregard for employee safety and health." That a single company is responsible for 97 percent of willful safety citations in a dangerous industry is cause for serious concern.

Under current law, employers are only required to notify OSHA of workplace safety incidents that result in the death of a worker or the hospitalization of three or more workers. However, a major fire or explosion that seriously injures two workers may go unreported, and OSHA may not learn of the incident until its next inspection—often years after the incident. Additionally, current law does not require employers to record injuries and illnesses of contractors at their facilities unless they directly supervise the contractor employees. This is despite the fact that some of the most dangerous work in the oil and gas industry is performed by contractors. Excluding contractors from reporting requirements allows employers to claim their workplaces are safer than they actually are.

In October 2009, OSHA imposed \$87 million in fines for violations at BP's Texas City Refinery. This March, OSHA was forced to act again, imposing \$3 million in fines against BP's refinery near Toledo, Ohio. Because BP is contesting all 862 of the citations issued at these two refineries, OSHA is negotiating a settlement agreement.

BP's track record necessitates that any settlement agreement include provisions to increase OSHA's oversight of BP's compliance with workplace safety laws. Therefore, we urge OSHA

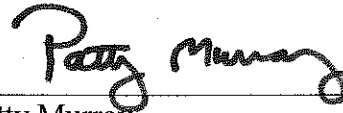
to include the following provisions in any settlement agreement negotiated with BP: 1) that BP report any process safety incident that occurs at a site under its control, regardless of the number of workers or contractors injured or killed; and 2) that BP implement a site injury and illness log with contracting companies of any size to record workplace injuries and illnesses for all workers, including contractors, for all sites under its control.

We would also suggest, going forward, that OSHA incorporate reporting and recording requirements into future settlement agreements with problem companies when a situation warrants. We look forward to working with you on this issue and welcome any questions you may have. Please contact Peach Soltis at Peach_Soltis@franken.senate.gov or Michael Waske at Michael_Waske@help.senate.gov on our staff if you would like to discuss this matter further. Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read "Al Franken", written over a horizontal line.

Al Franken
United States Senator

A handwritten signature in black ink, appearing to read "Patty Murray", written over a horizontal line.

Patty Murray
United States Senator